

ENCLOSURE 1 TO NYN-98096

LICENSE TRANSFER APPLICATION REQUESTING CONSENT FOR TRANSFER  
OF MONTAUP ELECTRIC COMPANY'S INTEREST IN OPERATING LICENSE NPF-86  
FOR SEABROOK STATION UNIT NO.1 TO LITTLE BAY POWER CORPORATION

9810130026 980929  
PDR ADOCK 05000443  
P PDR

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

---

In the Matter of	)	
	)	
North Atlantic Energy Service Corporation and	)	
Montaup Electric Company	)	Docket No. 50-443
	)	(License No. NPF-86)
(Seabrook Station, Unit No. 1)	)	
	)	

---

LICENSE TRANSFER APPLICATION REQUESTING CONSENT FOR TRANSFER  
OF MONTAUP ELECTRIC COMPANY'S INTEREST IN OPERATING LICENSE NPF-86  
FOR SEABROOK STATION UNIT NO. 1 TO LITTLE BAY POWER CORPORATION

I. INTRODUCTION AND PURPOSE OF TRANSFER

Montaup Electric Company ("Montaup") and Little Bay Power Corporation ("Little Bay") hereby request Commission consent to the transfer of control of Montaup's interest in Seabrook Station Unit No. 1 to Little Bay pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the "Act"), and 10 C.F.R. § 50.80. Little Bay is a wholly owned subsidiary of BayCorp Holdings, Ltd ("BayCorp"), which is the holding company that also owns Great Bay Power Corporation ("Great Bay"), which owns approximately 12.1% of Seabrook Station Unit No. 1.<sup>1</sup> The transfer is being undertaken by Montaup as part of the divestiture of all of its generating assets pursuant to the restructuring of the electric utility industry occurring in Massachusetts and Rhode Island.

---

<sup>1</sup> Little Bay Power Corporation is named after "Little Bay" which is a small bay located within the larger confines of "Great Bay," a body of water located in New Hampshire. Great Bay Power Corporation was named after "Great Bay."

## II. BACKGROUND

### A. Nature of the Transaction

Seabrook Station Unit No. 1 ("Seabrook") is a nuclear powered electric generating facility owned by eleven Joint Owners pursuant to an Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units, dated May 1, 1973, as amended (the "Joint Ownership Agreement"), and is operated pursuant to Operating License NPF-86 issued by the Commission. In accordance with the Joint Ownership Agreement and the Managing Agent Operating Agreement, dated as of June 29, 1992, as amended (the "MAOA"), North Atlantic Energy Service Corporation ("North Atlantic") is the Managing Agent for the eleven Joint Owners and as such has exclusive responsibility for the management, operation and maintenance of Seabrook.<sup>2</sup> Granting the request contained in this submission will not in any way affect North Atlantic's position as Managing Agent and operator of Seabrook or its responsibilities under the MAOA or any technical aspects of the Operating License.

Montaup is a wholly owned subsidiary of Eastern Edison Company ("Eastern Edison"), which in turn is a wholly owned subsidiary of Eastern Utilities Associates ("EUA"). EUA is a Massachusetts voluntary association organized and existing under a Declaration of Trust dated April 2, 1928, as amended, and is a registered holding company under the Public Utility Holding Company Act of 1935. Montaup historically has owned or controlled virtually all of the generating assets and entitlements needed to serve the full wholesale electrical requirements of Eastern Edison, Montaup's retail affiliate which operates in Massachusetts, and of Blackstone Valley Electric Company and Newport Electric Corporation, Montaup's retail affiliates which operate in Rhode Island. Among Montaup's generating assets is approximately a 2.9% undivided ownership interest in Seabrook (equivalent to approximately 33.7 MW of capacity). As part of the restructuring of the electric utility industry occurring in Massachusetts and Rhode Island, Montaup and its retail affiliates have negotiated comprehensive settlement agreements with the regulatory authorities in both states. These settlement agreements have been approved

---

<sup>2</sup> North Atlantic's position as Managing Agent and operator was approved by issuance of Amendment No. 10, dated May 29, 1992, to the Operating License.

by the states and by the Federal Energy Regulatory Commission in Docket Nos. ER97-2800-000 *et al.* Under these settlement agreements, Montaup has agreed to the complete divestiture of its generating business.

In furtherance of this commitment to divest, Montaup has agreed to sell—subject to obtaining the necessary regulatory approvals—its 2.9% ownership share of Seabrook to Little Bay.<sup>3</sup> Under the Purchase Agreement, Little Bay will pay Montaup \$3.2 million (subject to adjustments for certain assets and liabilities transferred at closing) for its ownership share of Seabrook and will assume responsibility for Montaup's share of Seabrook's future costs. As part of the agreement, Montaup will transfer to Little Bay its interest in the Seabrook Decommissioning Trust Fund and prepay the balance of the decommissioning obligations for its 2.9% ownership interest. As described more fully below, Montaup will prepay the decommissioning obligations by depositing monies into the Seabrook Trust Fund such that the total amount attributable to its 2.9% ownership interest at the time of closing will be \$11.8 million. Assuming a 1.73% annual real rate of return on this \$ 11.8 million (which is more conservative than the 2% real rate of return provided for by the NRC in its "Final Rule on Financial Assurance Requirements for Decommissioning Nuclear Power Reactors"), this amount will grow by the year 2026 (the current expiration of the Seabrook Operating License) to the amount required to decommission Montaup's 2.9% ownership share of Seabrook.

Little Bay will operate as a separate wholly owned subsidiary of BayCorp. It will sell the power generated by Montaup's current 2.9% ownership interest in Seabrook to Great Bay on a "take or pay" basis under which Great Bay will be obligated to pay all of Little Bay's costs associated with its prospective 2.9% ownership interest in Seabrook. In turn, Great Bay will market the power attributable to Little Bay's prospective 2.9% interest in conjunction with Great

---

<sup>3</sup> The "Asset Purchase Agreement" dated June 24, 1998 ("Purchase Agreement") providing for the acquisition of Montaup's 2.9% ownership interest in Seabrook was between Great Bay and Montaup. Great Bay, however, has since assigned the Purchase Agreement to Little Bay. In accordance with the Purchase Agreement, Great Bay has guaranteed Little Bay's performance of its obligations under the Purchase Agreement and has retained responsibility for performing the Wholesale Standard Offer Service Agreement ("Wholesale Standard Offer Agreement") executed on the same date between Great Bay and EUA's retail subsidiaries. Under the Wholesale Standard Offer Agreement, Great Bay has agreed to supply a portion of the power requirements for existing customers of EUA's retail affiliates who do not choose an alternative supplier, as discussed in more detail below.

Bay's 12.1% interest in the Seabrook Station. Under the Wholesale Standard Offer Agreement (executed on the same date as the Purchase Agreement), Great Bay has agreed to supply a share of the standard offer obligation to serve existing customers of EUA's retail affiliates in Massachusetts (through February 28, 2005) and Rhode Island (through December 31, 2009) who do not choose an alternative supplier. The standard offer obligation requires EUA's retail affiliates to serve those customers who do not choose an alternative supplier at rates set by the settlement agreements in each state. These rates increase annually and are subject to increase by a fuel index.<sup>4</sup> Under the Wholesale Standard Offer Agreement, the share or percentage of the standard offer obligation to be supplied by Great Bay is the same as the proportion of Montaup's Seabrook generating capacity to its total generating capacity (except for its smallest generating units) prior to restructuring. Great Bay will sell the remainder of the power from Little Bay's prospective 2.9% interest in Seabrook at market rates in the same general manner as it currently sells the power attributable to its 12.1% ownership interest in Seabrook.

B. Other Regulatory Approvals

In addition to approval by the NRC, the proposed transfer will require other regulatory approvals including the following.

---

<sup>4</sup> The "standard offer" rates under the Wholesale Standard Offer Agreement are as follows:

<b>Calendar Year</b>	<b>Standard Offer Wholesale Price</b>
1998	3.2 cents/kWh
1999	3.5 cents/kWh
2000	3.8 cents/kWh
2001	3.8 cents/kWh
2002	4.2 cents/kWh
2003	4.7 cents/kWh
2004	5.1 cents/kWh
2005	5.5 cents/kWh
2006	5.9 cents/kWh
2007	6.3 cents/kWh
2008	6.7 cents/kWh
2009	7.1 cents/kWh

1. Federal Energy Regulatory Commission ("FERC"). FERC must approve the transfer of jurisdictional facilities (including books and records) owned by Montaup in connection with its ownership of Seabrook, pursuant to Section 203 of the Federal Power Act. Also, under the terms of Montaup's settlement agreements, FERC must approve its "method of sale and the reasonableness of the proceeds." Additionally, the Purchase Agreement requires Little Bay to obtain approval from FERC as an exempt wholesale generator ("EWG") prior to the transfer going forward.
2. Massachusetts Department of Telecommunications and Energy ("MDTE"). Montaup is an electric utility in Massachusetts, and thus is under the general supervision of the MDTE pursuant to M.G.L.c. 164 § 76. Furthermore, under the terms of Montaup's settlement agreements, the MDTE must approve its "method of sale and the reasonableness of the proceeds." As part of the MDTE approval, Montaup will need a determination that designation of its interest in Seabrook as an "eligible facility" pursuant to Section 32 of the Public Utility Holding Company Act (1) will benefit consumers; (2) is in the public interest; and (3) does not violate state law.
3. New Hampshire Public Utility Commission ("NHPUC"). Montaup is a foreign electric utility which participated in the construction and ownership of Seabrook pursuant to RSA 374-A:3. As such, the NHPUC must approve Montaup's transfer of its ownership interest in Seabrook as being "for the public good" pursuant to RSA 374:30.
4. Connecticut Department of Public Utility Control ("CDPUC"). The CDPUC must approve the sale pursuant to Connecticut General Statutes §16-43, by virtue of Montaup's ownership of certain generating assets located in Connecticut.

### III. SUPPORTING INFORMATION

Set forth below is the supporting information required by 10 C.F.R. § 50.80 for an application for Commission consent to a license transfer, namely information with respect to the proposed transferee of the type described in 10 C.F.R. §§ 50.33 and 50.34 concerning the identity and financial and technical qualifications of the proposed transferee and, because the Operating License is a class 103 license, information with respect to 10 C.F.R. § 50.33a.

A. 10 C.F.R. § 50.33 General Information

1) Name and Address of Successor Licensee:

Little Bay Power Corporation  
20 International Drive  
Suite 301  
Portsmouth, NH 03801

2) Description of Business: Little Bay will be an exempt wholesale generator engaged exclusively in the sale of electric power at wholesale, and regulated by the Federal Energy Regulatory Commission.

3) Corporate Charter

- (a) Little Bay is a corporation organized under the laws of New Hampshire with its principal place of business in Portsmouth, New Hampshire.
- (b) The names and addresses of the directors and principal officers of Little Bay, all of whom are United States citizens, are as follows:

<u>Name and Address</u>	<u>Title</u>
Frank W. Getman, Jr. 20 International Drive Suite 301 Portsmouth, NH 03801	Director, President and CEO
John A. Tillinghast 20 International Drive Suite 301 Portsmouth, NH 03801	Director and Chairman of the Board
Andrew J. Kurtz 20 International Drive Suite 301 Portsmouth, NH 03801	Director
Patrycia Barnard 20 International Drive Suite 301 Portsmouth, NH 03801	Treasurer

(c) Foreign Control: Little Bay is not owned, controlled or dominated by an alien, foreign corporation or foreign government.

4) Agency Status: Little Bay and Montaup are not acting as agents or representatives of any other person.

5) Restricted Data: This application does not contain any Restricted Data or other defense information, and it is not expected that any such information will become involved in the licensed activities. However, in the event such information does become involved, North Atlantic, as the representative of Little Bay, agrees that it will appropriately safeguard such information and will not permit any individual to have access to Restricted Data until the Office of Personnel Management shall have made an investigation and reported to the Commission on the character, associations and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security of the United States.

B. 10 C.F.R. § 50.33 Financial Information

(1) Financial Qualifications for Operational Costs: Little Bay meets the financial qualification requirements of 10 C.F.R. § 50.33(f) for non-electric utilities.<sup>5</sup> Under 10 C.F.R. § 50.33(f)(2), a non-electric utility applicant for an operating license must demonstrate that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license. Specifically:

The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility. The applicant shall also indicate the source(s) of funds to cover these costs.

10 C.F.R. § 50.33(f)(2).

---

<sup>5</sup> Similar to Great Bay, Little Bay will be an EWG whose wholesale rates will be regulated by FERC under federal law. The NRC has previously concluded, however, that Great Bay does not meet the NRC's definition of an electric utility under 10 C.F.R. § 50.2.



Little Bay's 2.9% share of the total annual estimated operating costs for Seabrook beginning January 1, 1999 through the end of the year 2003 are shown on the Table below.

TABLE I

<b>Year</b>	<b>Estimated Operating Costs</b>
1999	\$5.9 Million
2000	\$6.4 Million
2001	\$5.1 Million
2002	\$5.0 Million
2003	\$5.9 Million

These are the total estimated cash costs attributable to Montaup's 2.9% ownership share, based on Seabrook's projected budget, that Little Bay would be obligated to pay for the operation of the Seabrook facility for each of the next five years under the Joint Ownership Agreement.<sup>6</sup> These costs include plant operation and maintenance costs, capital additions, and nuclear fuel for the Seabrook plant.

The source of funds to pay for these costs will be the sale of the power generated by Little Bay's 2.9% prospective ownership share of Seabrook. As stated above, Little Bay will sell the power generated by its prospective 2.9% ownership interest in Seabrook to Great Bay on a take or pay basis under which Great Bay will be obligated to pay all of Little Bay's costs associated with its ownership interest in Seabrook. In turn, Great Bay will sell some of the power attributable to Little Bay's prospective 2.9% ownership interest in Seabrook to EUA's retail subsidiaries pursuant to the Wholesale Standard Offer Agreement described above. The remainder of the power will be sold by Great Bay at market rates in the same general manner as it currently sells its 12.1% ownership interest in Seabrook. Great Bay will sell the power on the

---

<sup>6</sup> The costs for the years 1999 through 2002 are based on the official "Seabrook 1998 Budget and 1999 - 2002 Forecast," which includes budget forecasts for the years 1999 through 2002. The costs for the year 2003 are based on the previous budget forecasts adjusted for major expenditures currently projected for 2003 (e.g., nuclear fuel).

spot or short-term market and on a medium or long term basis as opportunities for such longer term sales become available.

Attached as Exhibit 1 to this Application are the consolidated cash flow and income statement projections for BayCorp for the years 1999 through 2003 incorporating Little Bay's prospective acquisition of Montaup's current 2.9% interest in Seabrook and Great Bay's related sale of power attributable to that interest.<sup>7</sup> Also included in Exhibit 1 are the spot and short term market sale price and capacity factor assumptions underlying these projections. The projections show that revenues from the sale of power from Seabrook are more than sufficient to cover the estimated pro rata share of Great Bay's and Little Bay's costs to operate Seabrook Station and their other costs associated with the sale of that power (e.g. transmission costs and taxes).<sup>8</sup> Indeed, comparison of the projections in Exhibit 1 with those filed by Great Bay with the NRC this past spring<sup>9</sup> reflect that the acquisition of Montaup's 2.9% interest enhances the financial wherewithal and viability of BayCorp and its subsidiaries. This can be seen by comparing the net income projected with the acquisition of Montaup's 2.9% reflected in Exhibit 1, with the net income projected in Great Bay's filing last spring (referenced in footnote 9 supra).

Thus, Little Bay is financially qualified under the NRC's regulations to possess its prospective 2.9% ownership interest in Seabrook. Little Bay will recover its costs under its take

---

<sup>7</sup> A redacted version of the Exhibit is attached to this document deleting sensitive commercial and financial information. The unredacted version is being filed separately by Little Bay together with an affidavit of Frank W. Getman, Jr. requesting that the NRC maintain the sensitive commercial and financial information contained in Exhibit 1 in confidence under 10 C.F.R. § 2.790.

<sup>8</sup> The income projections in Exhibit 1 show total operating revenues exceeding total operating expenses for each of the five years. These projections are based on depreciated costs and, as such, include under "Plant Depreciation" sunk acquisition and capital addition costs which are not included in the cash operating cost estimates of Seabrook Station set forth in Table I above. The plant depreciation costs shown in Exhibit 1, however, are significantly greater (by approximately 70%) than the cash capital addition costs included in the Seabrook projected budgets that would be allocated to Little Bay and Great Bay over the five year period. Accordingly, the income projections in Exhibit 1 are conservative in showing the sufficiency of power sale revenues to cover the estimated pro rata share of Little Bay's (as well as Great Bay's) costs to operate the Seabrook Station due under the Seabrook Joint Owners Agreement.

<sup>9</sup> See "Response to Request for Additional Information—Great Bay Power Corporation's Request to Provide Reasonable Assurance of Decommissioning Funds through Accelerated Trust Fund Contributions," filed under cover letter from Gerald Charnoff dated March 31, 1998.

or pay agreement with Great Bay which in turn will recover those costs from the sale of power attributable to Little Bay's prospective Seabrook interest. The NRC has twice previously determined in analogous circumstances that Great Bay is financially qualified under 10 C.F.R. § 50.33(f)(2) with respect to its financial obligations for Seabrook's operational, maintenance and related costs attributable to its current 12.1% ownership interest in Seabrook.<sup>10</sup> By the same analysis and logic, Little Bay satisfies the financial qualification requirements of 10 C.F.R. § 50.33(f) with respect to its prospective 2.9% ownership interest in Seabrook.

(2) Financial Qualifications for Decommissioning Funding: Clause (k) of 10 C.F.R. § 50.33 requires an application for an operating license for a utilization facility to contain information indicating how reasonable assurance will be provided that funds will be available to decommission the facility. The Licensees previously filed on December 27, 1989, as updated and supplemented on July 23, 1990, a Report demonstrating how such reasonable assurance would be provided by the Licensees. In accordance with that Report, Montaup has been paying monies on a monthly basis into the Seabrook Decommissioning Trust fund for the decommissioning of its 2.9% ownership share of the Seabrook facility.

Under a Decommissioning Funding Agreement (the "Decommissioning Agreement") executed in conjunction with the Purchase Agreement, Montaup has agreed to prefund the decommissioning liability associated with its 2.9% ownership interest in Seabrook. Under the Decommissioning Agreement (which is attached to this Application as Exhibit 2), Montaup will deposit monies into the Seabrook Trust Fund such that the amount of monies in the Trust Fund attributable to its 2.9% ownership at the time of closing will be \$11,800,000, which is based on the total current projected funding requirement for Seabrook.<sup>11</sup> Further, Montaup will assign to

---

<sup>10</sup> See North Atlantic Energy Services Corporation and Great Bay Power Corporation (Seabrook Station, Unit No. 1), Docket No. 50-443, Exemption Order at 3-4 (January 22, 1997), 62 Fed. Reg. 5,492, 5,493 (1997); North Atlantic Energy Services Corporation and Great Bay Power Corporation (Seabrook Station, Unit No. 1), Docket No. 50-443, Exemption Order at 5 (July 23, 1997), 62 Fed. Reg. 40,549, 40,550 (1997).

<sup>11</sup> Under the Decommissioning Agreement, the \$11,800,000 will be increased or decreased in proportion to any increase or decrease in the total funding requirement for the project, as of the date of closing, determined by the New Hampshire Nuclear Decommissioning Finance Committee pursuant to NHRSA 162-F:22. For example, if

Little Bay at closing its entire right, title and interest in the Seabrook Trust Fund.<sup>12</sup> In turn, Little Bay will assume and pay all decommissioning obligations attributable to this 2.9% ownership interest in Seabrook.

The prepaid amount of \$11,800,000 will be sufficient to pay decommissioning costs attributable to Montaup's 2.9% ownership interest in Seabrook in accordance with the Commission's recently promulgated "Final Rule on Financial Assurance Requirements for Decommissioning Nuclear Power Reactors."<sup>13</sup> Based on the current cost estimate of \$489,000,000 for the decommissioning of Seabrook (submitted by the Seabrook owners to the New Hampshire Nuclear Decommissioning Finance Committee ("New Hampshire NDFC") for approval for funding purposes)<sup>14</sup> and a cost escalation factor of 5% (previously approved for funding purposes by the New Hampshire NDFC), Little Bay will be required to have fund assets of \$57,186,727 as of December 31, 2026. The \$11,800,000 will grow to the required balance with an annual nominal return of as little as 5.8%. See Exhibit 3 ("Computation of Required Rate of Return"). Assuming a long-term inflation rate of 4% (also approved for funding purposes by the New Hampshire NDFC), the 5.8% nominal required return equates to a 1.73% real return. Id.<sup>15</sup> This annual real rate of return is well below the 2% annual real rate of return allowed by the Commission's final rule on decommissioning funding.<sup>16</sup>

---

the estimated total decommissioning funding requirement for the project were to increase by 5% prior to closing, the \$11,800,000 would increase by 5% as well.

<sup>12</sup> The Seabrook Trust Fund is administered by the Treasurer of the State of New Hampshire pursuant to RSA 162-F:20 and as such will be outside the "administrative control" of Little Bay as required by the NRC's regulations.

<sup>13</sup> Final Rule on Financial Assurance Requirements for Decommissioning Nuclear Power Plants, 63 Fed. Reg. 50,465, September 22, 1998. The new rule will take effect on November 23, 1998.

<sup>14</sup> This \$489,000,000 is the escalated minimum amount of decommissioning funding required under 10 C.F.R. § 50.75(c). It is greater than the site specific estimate of \$473,600,000.

<sup>15</sup> The real rate return of 1.73% was calculated using the formula  $[(1+.058)/(1+.04)]-1$ . See Exhibit 3. This computation methodology (geometric difference) is the industry standard and is used, rather than simple subtraction, to allow compounding of returns over multiple time periods.

<sup>16</sup> Further, the comparison of the 1.73% to the 2% is not strictly an apples to apples comparison. The NRC's 2% annual real rate of return allowed under the new final rule is an "after tax" rate of return, 62 Fed. Reg. 47,588, 47,599 (1997), which assumes that monies would be withdrawn from the assets of the trust fund to pay the applicable taxes on earnings by the fund, thereby reducing the rate of return from its pre-tax status. Here,

Specifically, upon becoming effective the new rule will provide that:

A licensee may take credit for projected earnings on the prepaid decommissioning trust funds using up to a 2 percent annual real rate of return from the time of future funds' collection through the projected decommissioning period. This includes the periods of safe storage, final dismantlement, and license termination . . . .

63 Fed. Reg. at 50,481. As stated in the statement of considerations for the final rule, this provision (and the related provision concerning external sinking funds) "allows licensees to take credit for earnings on their prepaid decommissioning trust fund or external sinking funds using a 2 percent annual real rate of return from the time of the funds' collection through the decommissioning period. 63 Fed. Reg. at 50,476 (emphasis added). The allowance of this 2 percent credit on earnings is based on the Commission's determination that a "zero rate of return" is "too conservative and not borne out by the data" and its related recognition that the 2% annual real rate of return set forth in the final rule—within which Little Bay's required 1.73% annual real growth rate comfortably falls<sup>17</sup>—is highly conservative and "represents as close to a 'risk free' return as possible." 62 Fed. Reg. 47,588, 47,599 (1997) (Statement of Considerations for the Proposed Rule); see also 63 Fed. Reg. at 50,476.

---

approximately \$9,400,000 of the initial \$11,800,000 will be placed in non-qualified funds. The taxes on the earnings of this \$9,400,000 placed in non-qualified funds will be paid by Little Bay from its own corporate monies—not from the assets of the non-qualified funds—and accordingly the rate of return on this \$9,400,000 will not be reduced by taxes. As a practical matter, therefore, the nominal rate of return necessary for Little Bay to achieve its required real growth rate of 1.73% is significantly less than that which would be required if all taxes were paid from trust funds assets as presumed with respect to the NRC's 2% annual real rate of return. Thus, the fact that Little Bay will pay the great majority of the taxes associated with the projected earnings on the \$11,800,000 prepayment further enhances the conservatism and sufficiency of this prepaid amount when compared with the NRC's final rule allowing a credit for earnings on prepaid decommissioning trust funds using a 2% after tax real rate of return. In effect, the required 1.73% real earnings rate must be achieved only on a pre-tax basis with respect to the great majority of the \$11,800,000 compared to the Commission's allowed after-tax return of 2%.

<sup>17</sup> The NRC final rule allows the credit for earnings to be taken through the end of the decommissioning period, which for Seabrook is anticipated, at the earliest, to be 2037. Taking a credit for earnings through 2037, rather than Seabrook's scheduled shutdown date of 2026 as done above in calculating the required real growth rate of 1.73%, makes an even stronger case that the \$11,800,00 prepayment, combined with its anticipated earnings, would be more than sufficient to meet Little Bay's decommissioning funding obligation with respect to its prospective 2.9% ownership interest in Seabrook.

The New Hampshire NDFC also allows the Seabrook owners to take credits for projected earnings in determining the availability of sufficient decommissioning funds and has approved earning rates for each of the six funds in which the Seabrook joint owners can choose to invest. (The New Hampshire NDFC is the expert entity established under New Hampshire law to ensure the sufficiency of the funds for decommissioning the Seabrook Station,<sup>18</sup> and the New Hampshire Public Utilities Commission and the other public utility commissions having jurisdiction over owners of the Seabrook Station rely on the determinations of the New Hampshire NDFC in establishing rates to allow the utility owners to collect sufficient funds for decommissioning Seabrook Station.) The real rates of return approved by the New Hampshire NDFC, based on historical real rates of return, range from 0.8% for a non-qualified cash management fund to 6.5% for a non-qualified equity fund.<sup>19</sup> Assuming for example an allocation on average of 60% to fixed income investments and 40% to equity investments, the \$11,800,000 would produce for Little Bay a long-term real rate of return of 3.97% based on the New Hampshire NDFC approved rates. This rate of return is comfortably above the 1.73% real rate of return which, as discussed above, provides Little Bay sufficient monies to satisfy NRC decommissioning requirements.

In sum, the prepayment of \$11,800,000 into the Seabrook Trust Fund provides reasonable assurance of sufficient monies in accordance with the Commission's regulations for the decommissioning of Little Bay's prospective 2.9% ownership interest in Seabrook.<sup>20</sup>

---

<sup>18</sup> Under New Hampshire law, the New Hampshire NDFC has the responsibility to determine (1) the amount of the decommissioning fund to be established for the Seabrook facility, and (2) the amount of the regular monthly payments to be paid into the decommissioning fund by each of the Seabrook owners in order to reach the level of decommissioning funding determined to be necessary by the Committee. See RSA 162-F:17, I; 162-F:19, II; 162-F:21, II; 162-F:22, I. Chapter 162-F requires the amount of the decommissioning fund to be "sufficient to cover all costs of decommissioning the facility" and to achieve and maintain "the level of decommissioning required" by the NRC. RSA 162-F:21, II.

<sup>19</sup> The real rates of return approved by the New Hampshire NDFC on the non-qualified funds are higher than those for similar qualified funds because the taxes on the earnings on qualified funds are paid out of the funds assets whereas the taxes on the earnings on non-qualified funds are not.

<sup>20</sup> Little Bay will annually conduct a "prefunding true-up" review under which it will review the sufficiency of accumulated funds (the initial \$11,800,000 and subsequent earnings) to cover decommissioning funding requirements for its prospective 2.9% ownership interest in Seabrook (assuming a 2% real earnings rate) and will

C. 10 C.F.R. § 50.34 Information

Clause (b)(7) of 10 C.F.R. § 50.34 requires information describing the technical qualifications of the applicant to engage in the proposed activity. The MAOA, which was entered into by the Joint Owners pursuant to the Joint Ownership Agreement and by which Little Bay will be bound, provides that North Atlantic is responsible for the management, operation and maintenance of Seabrook. Amendment No. 10 to the Operating License contains the Commission's findings that North Atlantic is technically qualified to perform those responsibilities. The proposed transfer will not result in any modification in that arrangement. Since Little Bay will have no responsibility for the management, operation or maintenance of Seabrook, it does not need to demonstrate any technical qualifications.

D. 10 C.F.R. § 50.33a Information

As noted above, Montaup's interest in the Seabrook Station is equivalent to approximately 33.7 MW. This 33.7 MW will be the only generating capacity that Little Bay will have. Because this capacity is less than 200 MW, pursuant to 10 C.F.R. § 50.33a(a)(3), there is no requirement to submit the information described in Appendix L to Part 50 of the Commission's Regulations in connection with this request for consent under 10 C.F.R. § 50.80. Even if one were to add Great Bay's 140 MW of capacity to the 33.7 MW of Little Bay, the total capacity would still be less than 200 MW, below the threshold established by 10 C.F.R. § 50.33a(a)(3).

#### IV. CONCLUSION

Based upon the foregoing, Montaup and Little Bay hereby request that the Commission consent to the transfer of control of Montaup's approximate 2.9% interest in Seabrook Station, Unit No. 1 to Little Bay. Montaup and Little Bay request Commission action on this application by January 31, 1999.

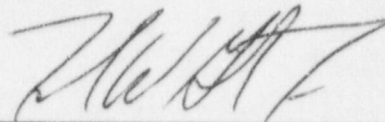
---

deposit, if necessary, additional funds in the Seabrook Decommissioning Trust as required to maintain the prefunded status of its decommissioning obligation allowing a credit for future earnings using a 2% annual real rate of return.

CERTIFICATION

I, FRANK W. GETMAN, JR., being duly sworn, state that:

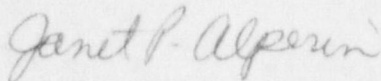
- (1) I am President and Chief Executive Office of Little Bay Power Corporation;
- (2) I am duly authorized to execute and file this certification on behalf of Little Bay Power Corporation; and
- (3) The statements set forth in the attached application are true and correct to the best of my information, knowledge and belief.



---

FRANK W. GETMAN, JR.

SWORN and subscribed to before me  
this 24<sup>th</sup> day of September, 1998.



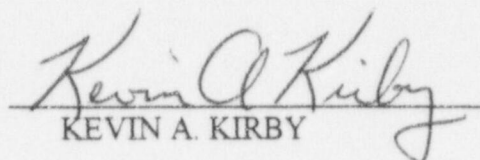
JANET P. ALPERIN, Notary Public  
My Commission Expires June 5, 2001




CERTIFICATION

I, KEVIN A. KIRBY, being duly sworn, state that:

- (1) I am Vice President of Montaup Electric Company;
- (2) I am duly authorized to execute and file this certification on behalf of Montaup Electric Company; and
- (3) The statements set forth in the attached application are true and correct to the best of my information, knowledge and belief.

  
KEVIN A. KIRBY

SWORN and subscribed to before me  
this 28th day of September, 1998.

  
Barbra L. Dantono

My Commission Expires: March 30, 2001

EXHIBIT 1

EXHIBIT 1

BAYCORP HOLDINGS, LTD.  
 INCOME STATEMENT FORECAST  
 1999-2003  
 (including Montaup Acquisition)  
 (000's)

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
REVENUE					
Sales					
Other Revenues					
<i>Total Operating Revenues</i>					
Operating Expenses:					
Production					
Nuclear Fuel Amortization					
Transmission					
Administration & General					
Plant Depreciation					
Taxes Other than Income					
<i>Total Operating Expenses</i>					
<i>Operating Income</i>					
Other Income ( Expenses )					
Interest Expense					
Interest Income					
Decommissioning Accretion					
Decom Trust Fund Income - GBPC					
Decom Trust Fund Income - LBPC					
Other Income(Deductions)					
<i>Total Other Income/(Expense)</i>					
<i>Income Before Taxes</i>					
Income Tax					
<i>Net Income</i>					

**BAYCORP HOLDINGS, LTD.**  
**STATEMENT OF CASH FLOWS FORECAST**  
**1999-2003**  
**(including Montaup Acquisition)**  
**(000's)**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
<b>CASH FLOWS FROM OPERATING ACTIVITES:</b>					
Net Income ( Loss)					
Adjustments to reconcile Net Income To					
Net Cash provided by Operating Activities:					
Depreciation & Amortization					
Nuclear Fuel Amortization					
Decommissioning Trust Accretion					
Decommissioning Trust Interest - GBPC					
Decommissioning Trust Interest - LBPC					
Change in Assets/Liabilities					
(Increase)Decrease in:					
Accounts Receivable					
Materials & Supplies					
Prepayments & Deferred Debits					
Increase (Decrease) in:					
Accounts Payable					
Taxes Accrued					
Other					
<hr/>					
<i>Net Cash Provided(Used In) Operating Activites</i>					
<hr/>					
<b>CASH FLOWS FROM INVESTMENT ACTIVITIES:</b>					
Gross Additions to Utility Plant					
Gross Additions to Nuclear Fuel					
Decommissioning Fund Payments					
Proceeds from Sale of Fixed Assets					
Montaup Acquisition					
<hr/>					
<i>Net Cash Provided From (Used In) Investment Activitie</i>					
<hr/>					
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>					
Reacquired Capital Stock - Common					
Warrants Exercise					
<hr/>					
<i>Net Cash Provided From (Used In) Financing Activites</i>					
<hr/>					
<b>NET INCRE (DECR) IN:</b>					
<hr/>					
<b>TOTAL CASH &amp; INVESTMENTS</b>					
<hr/>					
<b>TOTAL CASH AT BEGINNING OF PERIOD</b>					
<hr/>					
<b>TOTAL CASH AT END OF OF PERIOD</b>					
<hr/>					

**BAYCORP HOLDINGS, LTD.**

**Spot and Short Term Market Sale Price and  
Capacity Factor Assumptions Underlying  
Net Income and Cash Flow Projections**

<i>YEAR</i>	<i>PROJECTED AVERAGE PRICE FOR SPOT AND SHORT-TERM MARKET SALES</i>	<i>PROJECTED SEABROOK CAPACITY FACTOR</i>
1999		
2000		
2001		
2002		
2003		

Great Bay believes that the sales price and capacity factor projections set forth above are reasonable, conservative and achievable. Great Bay has experienced market price increases of 6.5% in 1996, 10.5% in 1997 and is projecting a 14% increase in 1998 based on committed sales to date and other market information for 1998. In its projections, Great Bay assumes a price escalation factor for 1999 and a escalation rate for 2000 through 2003.

With respect to capacity factor, there are refueling outages scheduled to occur in 1999, 2000, 2002 and 2003.

EXHIBIT 2

NUCLEAR DECOMMISSIONING FUND ASSIGNMENT  
AND ASSUMPTION AGREEMENT

NUCLEAR DECOMMISSIONING FUND ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of June 24, 1998, by and between MONTAUP ELECTRIC COMPANY, a Massachusetts corporation ("Seller") and GREAT BAY POWER CORPORATION, a New Hampshire corporation ("Buyer").

WHEREAS, the Buyer and Seller are parties to the Asset Purchase Agreement (as hereinafter defined), pursuant to which Buyer has agreed to purchase and Seller has agreed to sell certain assets that include Seller's entire right, title and interest in and to the Project (as hereinafter defined); and

WHEREAS, the sale of Seller's interest in the Project pursuant to the Asset Purchase Agreement is an integral component of the divestiture of generating assets of the Seller and such divestiture will facilitate the restructuring of the businesses of Seller's corporate parent and its retail electric utility affiliates, which Seller desires to accomplish;

WHEREAS, the Seller understands that the Buyer's willingness to enter into the Asset Purchase Agreement is entirely contingent upon the Seller's advance funding of the Decommissioning Obligation (as hereinafter defined) as set forth in this Agreement, on or prior to consummation of the transactions contemplated by the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants, representations, warranties and agreements set forth below, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. DEFINITIONS. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"*Asset Purchase Agreement*" means the Asset Purchase Agreement dated as of June 24, 1998 by and between the Seller and the Buyer.

"*Closing*" means the Closing as defined in the Asset Purchase Agreement.

"*Closing Balance Amount*" means the aggregate amount, as set forth in a certificate of the Seller to be delivered to the Buyer at the Closing, of all balances of the Seller on deposit in, or credited to the account of the Seller with respect to, the Decommissioning Trust Fund as of the Closing.

This Page Intentionally Blank



*"Decommissioning"* means all actions taken to render a nuclear power plant permanently inactive, inoperable and free of radioactive materials, including, without limitation, the entombment, decontamination, dismantlement, removal and disposal of structures, systems, and components of the Project in order to permanently cease the nuclear generation of electric energy, post-shutdown actions, all site restoration actions (including, but not limited to, all actions necessary to bring the plant site to "greenfield" or "brownfield" status), and any other item included in a study accepted and approved by regulatory authorities of competent jurisdiction as a basis for the termination of operations, preparation for decommissioning, such as engineering and other planning activities, and all associated activities to be performed after the actual dismantlement occurs, such as physical security and radiation monitoring, activities associated with spent fuel storage, disposal, transfer, transportation and removal and low level waste storage as well as future obligations with respect to decontamination and decommissioning of uranium enrichment facilities and preparation of studies and supporting documentation required by regulatory authorities of competent jurisdiction. The foregoing specification is not intended to form a basis for excluding any action or cost legitimately part of post-shutdown, decommissioning, and site restoration because of the failure to separately identify or to fall within a category specifically identified.

*"Decommissioning Obligation"* means all obligations of the Seller in connection with the Decommissioning of the Project, based on its ownership of the Montaup Seabrook Interest, including, without limitation, obligations for advanced funding and payment of costs in connection with the Decommissioning of the Project and any obligations or liabilities of the Seller to act as a surety for or guarantor of the obligations of any other person in respect of the Decommissioning of the Project required pursuant to federal and New Hampshire law, whether such obligations arise under this Agreement or otherwise.

*"Decommissioning Trust Fund"* means the fund established pursuant to New Hampshire Rev. Stat. Ann. Ch. 162-F, and any alternative or additional fund established for the purpose of funding the Decommissioning of the Purchased Assets.

*"Maximum Funding Amount"* means \$11,800,000.

*"Montaup Seabrook Interest"* means the Seller's entire 2.89989% interest in the Project, including all assets and other interests in the Project being transferred pursuant to the Asset Purchase Agreement.

*"NDFC"* means the New Hampshire Nuclear Decommissioning Finance Committee, established by NHRSA 162-F, or any successor thereto.

*"Prefunding Deposit Amount"* means the difference between (i) the Maximum Funding Amount, as adjusted in accordance with Section 2.2 and (ii) the Closing Balance Amount, as adjusted in accordance with Section 2.3.

"Project" means the Seabrook Nuclear Power Project in Seabrook, New Hampshire.

"Purchased Assets" means the Purchased Assets as defined in Asset Purchase Agreement.

## 2. FUNDING OF THE DECOMMISSIONING TRUST FUND.

2.1 The Seller hereby agrees that, at the Closing, it will deposit or cause to be deposited into the Decommissioning Trust Fund an amount equal to the Prefunding Deposit Amount.

2.2 The Maximum Funding Amount shall be increased or decreased in the same proportion to any increase or decrease, determined by NDFC pursuant to NHRSA 162-F:22, in the NDFC funding requirement for the Project from \$489,000,000 (in 1998 dollars).

2.3 In connection with the determination of the Closing Balance Amount, in the event that actual figures are not available as of the Closing, the Closing Balance Amount shall be determined based upon actual balances reported in the most recent Decommissioning Master Trust Report issued prior to the Closing and an estimate of earnings on such actual balances at the reported earnings rates set forth in such Decommissioning Master Trust Report. At the request of either the Seller or the Buyer, made within sixty days of the date that actual amounts, as of the Closing, become available, the parties agree to re-determine the Prefunding Deposit Amount to take into account the difference between any estimated Closing Balance Amount and the actual Closing Balance Amount as of the Closing. Within ten days of such re-determination, the Seller shall pay to the Buyer the amount of any shortfall in, and the Buyer shall pay to the Seller the amount of any excess over, the Prefunding Deposit Amount. The Seller and the Buyer agree to furnish each other with such documents and other records as may be reasonably required in order to confirm all calculations of the Closing Balance Amount and the Prefunding Deposit Amount required by this Section 2.3.

## 3. ASSIGNMENT OF DECOMMISSIONING TRUST FUND.

The Seller hereby assigns, with effect from and after the Closing, to the Buyer its entire right, title and interest in and to the Decommissioning Trust Fund, whether as settlor, beneficiary, trustee or otherwise, including the Seller's right to refund or repayment, if any, from the Decommissioning Trust Fund following Decommissioning or otherwise.

## 4. SELLERS REPRESENTATIONS AND WARRANTIES.

4.1 The Seller represents and warrants to the Buyer as follows:

(a) Subject to the rights of the State of New Hampshire to maintain and administer and to expend the Decommissioning Trust Fund on the Decommissioning of the Project pursuant to NHRSA 162-F, the Seller has good title to its interest in the Decommissioning Trust Fund, free and clear of all liens, pledges, mortgages, security and interests, conditional sales contracts, or other encumbrances of any nature whatsoever;

(b) The Seller has full corporate power and authority to execute, deliver and perform this Agreement and this Agreement has been duly and validly authorized by all requisite corporate proceedings and constitutes the legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms; and

(c) As of the Closing, all approvals, consents or filings with any governmental agency or other person required in connection with the transfer of the Seller's interest in the Decommissioning Trust Fund to the Buyer in accordance with this Agreement have been obtained or made.

4.2 The Buyer represents and warrants to the Seller as follows:

(a) The Buyer has full corporate power and authority to execute, deliver and perform this Agreement and this Agreement has been duly and validly authorized by all requisite corporate proceedings and constitutes the legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms; and

(b) As of the Closing, all approvals, consents or filings with any governmental agency or other person required in connection with the execution, delivery and performance by the Buyer of its obligations hereunder have been obtained or made.

#### 5. ASSUMPTION OF DECOMMISSIONING OBLIGATION AND INDEMNIFICATION

The Buyer hereby assumes and agrees to pay and discharge, with effect from and after the Closing, all Decommissioning Obligations of the Seller, whenever such liability may have arisen or may arise in the future and agrees to indemnify and hold the Seller harmless from against any and all Indemnifiable Losses (as defined in the Asset Purchase Agreement) asserted against or suffered by the Seller relating to, resulting from or arising out of such Decommissioning Obligations, or any breach by the Buyer of any covenant, agreement, representation or warranty of the Buyer under this Agreement. The Seller agrees to indemnify and hold the Buyer harmless from and against any and all Indemnifiable Losses (as defined in the Asset Purchase Agreement) asserted against or suffered by the Buyer relating to, resulting from or arising out of any breach by the Seller of any covenant, agreement, representation or warranty of the Seller under this Agreement.

#### 6. SURVIVAL.

The representations, warranties, covenants and agreements set forth in this Agreement shall survive the Closing indefinitely.

7. ASSIGNMENT.

This Agreement shall be enforceable against the successors and assigns of the Seller and the Buyer shall inure to the benefit of the successors and assigns of the Seller and the Buyer. This Agreement may be assigned by the parties to the same extent provided for assignment in and subject to the requirements of Section 11.5 of the Asset Purchase Agreement.

8. MISCELLANEOUS

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts (regardless of the laws that might otherwise govern under applicable Massachusetts principles of conflicts of laws). This Agreement is delivered pursuant to and is subject to the provisions of the Asset Purchase Agreement that are not inconsistent with the terms of this Agreement. In the event of any conflict between the terms of the Asset Purchase Agreement and the terms of this Agreement, the terms of the this Agreement shall prevail.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties set forth below as of the date first written above.

MONTAUP ELECTRIC COMPANY

By: Kevin A Kirby  
Name: Kevin A. Kirby  
Title: Vice President

GREAT BAY POWER CORPORATION

By: \_\_\_\_\_  
Name: Frank W. Getman, Jr.  
Title: President and Chief  
Executive Officer

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties set forth below as of the date first written above.

MONTAUP ELECTRIC COMPANY

By: \_\_\_\_\_  
Name: Kevin A. Kirby  
Title: Vice President

GREAT BAY POWER CORPORATION

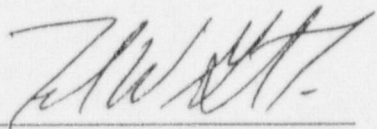
By:  \_\_\_\_\_  
Name: Frank W. Getman, Jr.  
Title: President and Chief  
Executive Officer

EXHIBIT 3

## Computation of Required Rate of Return

### Assumptions:

Fund balance (12/98) – \$11,800,000

Required balance in year of shutdown (12/26) – \$57,186,727

(Based on Montaup's 2.9% share of a total decommissioning cost estimate of \$489,037,800 as of 12/31/97, escalated at 5% per year. The total also reflects some pre-shutdown expenditures.)

Number of years to shutdown = 28

Assumed future inflation rate – 4% (as approved by the New Hampshire NDFC)

### Variables:

$R_n$  = Required nominal return

$R_r$  = Required real return

I = Inflation

### Computation:

$$\$11,800,000 * (1 + R_n)^{28} = \$57,186,727$$

$$(1 + R_n)^{28} = 4.846333$$

$$R_n = 0.05798$$

$$R_r = [(1 + R_n) / (1 + I)] - 1$$

$$R_r = [(1.05798) / (1.04)] - 1$$

$$R_r = 0.01729$$



ENCLOSURE 2 TO NYN-98096